

**Introduced by Committee on Elections, Reapportionment and
Constitutional Amendments (Senators Calderon (Chair), Battin,
Cogdill, Migden, and Oropeza)**

February 22, 2007

An act to amend Sections 301, 302, 360, 13002, 13006, 13007, 14443, 15360, 15627, and 18400 of, and to repeal Sections 315, 344, 345, 13004, 13005, 13266, and 15211 of, the Elections Code, relating to ballots.

LEGISLATIVE COUNSEL'S DIGEST

SB 513, as introduced, Committee on Elections, Reapportionment and Constitutional Amendments. Ballots.

Existing law permits the use of various voting systems, including punchcard voting systems.

This bill would eliminate the use of punchcard voting systems.

Because this bill changes duties of elections officials relating to voting systems, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 301 of the Elections Code is amended to read:

301. A “ballot” means any of the following:

~~(a) A single card with prescored, number positions that is marked by the voter with a punching device and the accompanying reference page or pages containing the names of candidates and the ballot titles of measures to be voted on with numbered positions corresponding to the numbers on the card.~~

~~(b)~~

(a) One or more cards upon which are printed the names of the candidates and the ballot titles of measures to be voted on by punching or marking in the designated area.

~~(c)~~

(b) One or more sheets of paper upon which are printed the names of candidates and the ballot titles of measures to be voted on by marking the designated area and that are tabulated manually or by optical scanning equipment.

~~(d)~~

(c) A large sheet of paper upon which is printed the names of candidates and ballot titles of measures to be voted on by pressing the designated area on a direct-recording electronic device.

~~(e)~~

(d) An electronic touchscreen upon which appears the names of candidates and ballot titles of measures to be voted on by touching the designated area on the screen of a direct-recording electronic device.

SEC. 2. Section 302 of the Elections Code is amended to read:

302. “Ballot card” means a card or a number of cards upon which are printed, or identified by reference to the ballot, the names of candidates for nomination or election to one or more offices or the ballot titles of one or more measures. The ballot card shall also contain proper blank spaces to allow the voter to write in names not printed on the ballot unless a separate write-in ballot is used. The separate write-in ballot may be a paper ballot, a card, or the envelope used to enclose a ballot card. Determination of the format of a separate write-in ballot shall be within the discretion of the elections board. The separate write-in ballot shall provide a blank space followed by the word “office” and a second blank space

1 followed by the word “name” for purposes of facilitating write-in
2 votes for offices for which write-in votes may be cast, or may
3 provide a space for writing in the name followed by a space for
4 ~~punching or slotting~~ in order that the vote may be tabulated. All
5 separate write-in ballots may, in the discretion of the elections
6 board, have attached thereto two stubs that comply with Section
7 13261 regarding the stubs attached to a ballot card, except that the
8 information required under subdivisions (c) ~~through~~ to (g),
9 *inclusive*, of Section 13261 and instructions to voters on how to
10 vote for persons whose names do not appear on the ballot may be
11 printed on the write-in ballot and not upon a stub. Any serial
12 numbers appearing on the write-in ballot stubs need not be identical
13 to the serial numbers appearing on the stubs attached to the ballot
14 card or cards handed to the voter. Sections 13002 ~~through~~ to 13007,
15 *inclusive*, shall not apply to the preparation and composition of
16 separate write-in ballots authorized by this section. ~~Sections 14403~~
17 ~~and 14404 shall not apply to separate write-in ballots used in an~~
18 ~~election in which a punchcard voting system is used.~~

19 SEC. 3. Section 315 of the Elections Code is repealed.

20 ~~315. “Demonstrator” means a model or facsimile of the voting~~
21 ~~device or the portion of the face of the voting machine that shows~~
22 ~~the voter how to operate the machine.~~

23 SEC. 4. Section 344 of the Elections Code is repealed.

24 ~~344. “Punchcard” means a tabulating card on which the voter~~
25 ~~may record his or her vote by punching, marking, or slotting.~~

26 SEC. 5. Section 345 of the Elections Code is repealed.

27 ~~345. “Punching” includes marking a ballot card to record a~~
28 ~~vote.~~

29 SEC. 6. Section 360 of the Elections Code is amended to read:

30 360. “Voting device” means any device used in conjunction
31 with a ballot card or cards to indicate the choice of the voter by
32 marking, ~~punching~~, or slotting the ballot card.

33 SEC. 7. Section 13002 of the Elections Code is amended to
34 read:

35 13002. All ballot paper ~~and punchcards~~ used by any jurisdiction
36 holding an election pursuant to the laws of California, shall be
37 tinted and watermarked or overprinted with a design, to be
38 furnished by the Secretary of State, so that the watermark or
39 overprint shall be plainly discernible.

40 SEC. 8. Section 13004 of the Elections Code is repealed.

1 ~~13004. The Secretary of State shall adopt regulations governing~~
2 ~~the manufacture, distribution, and inventory control of punchcards~~
3 ~~and requiring the periodic inspection of the manufacturing and~~
4 ~~storage facilities involving punchcards. The Secretary of State~~
5 ~~shall also approve each punchcard manufacturer prior to a~~
6 ~~manufacturer providing punchcards for use in California elections.~~

7 SEC. 9. Section 13005 of the Elections Code is repealed.

8 ~~13005. (a) Before any user may purchase punchcards, the user~~
9 ~~shall request in writing a release for a specific quantity of these~~
10 ~~punchcards from the Secretary of State. If the request is in order,~~
11 ~~the Secretary of State shall then issue a written release for that~~
12 ~~quantity to the manufacturer, or to the authorized warehouse, and~~
13 ~~to the user. The format, text, and use of the request and release~~
14 ~~shall be governed by regulations adopted by the Secretary of State.~~

15 ~~(b) Nothing in this section shall be construed to prohibit a verbal~~
16 ~~request or verbal release, provided that this verbal request or verbal~~
17 ~~release is immediately confirmed in writing. The regulations shall~~
18 ~~expressly deny the manufacturing of punchcards without a specific~~
19 ~~release.~~

20 SEC. 10. Section 13006 of the Elections Code is amended to
21 read:

22 13006. No user, vendor, or manufacturer shall warehouse for
23 a subsequent election any ballot paper ~~or punchcards~~ furnished or
24 released by the Secretary of State for a specific election without
25 first obtaining authorization in writing from the Secretary of State
26 for the storage. The authorization shall include the particular details
27 of the amount to be stored so that audit controls may be established
28 and maintained. Any ballot paper ~~or punchcards~~ not used in that
29 election, not authorized to be retained for subsequent elections,
30 and not returned to the Secretary of State, shall be destroyed. A
31 certificate of destruction setting forth the date of destruction and
32 the amount of the ballot paper ~~or punchcards~~ destroyed shall be
33 transmitted to the Secretary of State.

34 SEC. 11. Section 13007 of the Elections Code is amended to
35 read:

36 13007. There shall be a revolving fund for the purchase of
37 ballot paper ~~and punchcards~~. The fund shall be continuously
38 appropriated and shall be continuously utilized without regard to
39 fiscal years for the payment of expenses incurred by the Secretary
40 of State in accordance with this section. The fund shall be used

1 for the purchase of ballot paper and punchboards, as provided in
2 this chapter, and shall be reimbursed by the receipts from the
3 jurisdiction obtaining the ballot paper or punchboards in accordance
4 with this chapter. The fund shall at all times be intact and
5 represented either by cash in the State Treasury, ballot paper, or
6 punchboards in the custody of the Secretary of State, or accounts
7 receivable representing ballot paper or punchboard sales.

8 SEC. 12. Section 13266 of the Elections Code is repealed.

9 ~~13266. If punchboard ballots are used for absent voting, the~~
10 ~~ballots shall be marked by pencil, or by a marking device that~~
11 ~~enables the voter to register his or her vote by punching or slotting~~
12 ~~the ballot card. Counting of punchboard ballots marked by pencil~~
13 ~~may be as with paper ballots, or a true duplicate copy of each ballot~~
14 ~~may be prepared using the same procedure as provided by Section~~
15 ~~15271. Absent voter ballots so prepared shall be counted by the~~
16 ~~counting device.~~

17 SEC. 13. Section 14443 of the Elections Code is amended to
18 read:

19 14443. If ballots are counted by means of electronic, *or*
20 electromechanical, ~~or punchboard~~ device, the elections official may
21 provide for early tabulation and announcement of the returns in a
22 manner consistent with the use of the tabulating devices.

23 SEC. 14. Section 15211 of the Elections Code is repealed.

24 ~~15211. If paper ballots are used for absentee voting, the canvass~~
25 ~~may be conducted in accordance with Chapter 1 (commencing~~
26 ~~with Section 15000), or the elections official may have a true~~
27 ~~duplicate copy of absentee voter paper ballots made on punchboard~~
28 ~~ballots that shall be verified in the presence of witnesses. After~~
29 ~~verification the punchboard ballots shall be counted in the same~~
30 ~~manner as other punchboard ballots.~~

31 SEC. 15. Section 15360 of the Elections Code is amended to
32 read:

33 15360. (a) During the official canvass of every election in
34 which a voting system is used, the official conducting the election
35 shall conduct a public manual tally of the ballots tabulated by those
36 devices, including ~~absent voters'~~ *absentee* ballots, cast in 1 percent
37 of the precincts chosen at random by the elections official. If 1
38 percent of the precincts is less than one whole precinct, the tally
39 shall be conducted in one precinct chosen at random by the
40 elections official.

1 In addition to the 1 percent manual tally, the elections official
2 shall, for each race not included in the initial group of precincts,
3 count one additional precinct. The manual tally shall apply only
4 to the race not previously counted.

5 Additional precincts for the manual tally may be selected at the
6 discretion of the elections official.

7 (b) If absentee ballots are cast on a direct recording electronic
8 voting system at the office of an elections official or at a satellite
9 location of the office of an elections official pursuant to Section
10 3018, the official conducting the election shall either include those
11 ballots in the manual tally conducted pursuant to subdivision (a)
12 or conduct a public manual tally of those ballots cast on no fewer
13 *less* than 1 percent of all the direct recording electronic voting
14 machines used in that election chosen at random by the elections
15 official.

16 (c) The elections official shall use either a random number
17 generator or other method specified in regulations that shall be
18 adopted by the Secretary of State to randomly choose the initial
19 precincts or direct recording electronic voting machines subject
20 to the public manual tally.

21 (d) The manual tally shall be a public process, with the official
22 conducting the election providing at least a five-day public notice
23 of the time and place of the manual tally and of the time and place
24 of the selection of the precincts to be tallied prior to conducting
25 the tally and selection.

26 (e) The official conducting the election shall include a report
27 on the results of the 1 percent manual tally in the certification of
28 the official canvass of the vote. This report shall identify any
29 discrepancies between the machine count and the manual tally and
30 a description of how each of these discrepancies was resolved. In
31 resolving any discrepancy involving a vote recorded by means of
32 ~~a punched voting system or by electronic or electromechanical~~
33 vote tabulating devices, the voter verified paper audit trail shall
34 govern if there is a discrepancy between it and the electronic
35 record.

36 SEC. 16. Section 15627 of the Elections Code is amended to
37 read:

38 15627. (a) If in the election which is to be recounted the votes
39 were recorded by means of ~~a punched voting system or by~~
40 electronic or electromechanical vote tabulating devices, the voter

1 who files the declaration requesting the recount may select whether
2 the recount shall be conducted manually, or by means of the voting
3 system used originally, or both.

4 (b) For purposes of direct recording electronic voting systems,
5 “conducted manually” means that either the paper record copies
6 or the voter verified paper audit trail of the electronically recorded
7 vote are counted manually, as selected by the voter who requests
8 the recount.

9 SEC. 17. Section 18400 of the Elections Code is amended to
10 read:

11 18400. Any person who makes, uses, keeps, or furnishes to
12 others, any paper ~~or punchcards~~ watermarked or overprinted in
13 imitation of ballot paper ~~or punchcards~~ is punishable by a fine not
14 exceeding one thousand dollars (\$1,000), or by imprisonment in
15 the state prison for 16 months, two or three years, or by both the
16 fine and imprisonment.

17 SEC. 18. If the Commission on State Mandates determines
18 that this act contains costs mandated by the state, reimbursement
19 to local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.